

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.Nos.323 and 718 of 2015
and
M.P.Nos.1 and 1 of 2015

The Commissioner and Director,
Animal Husbandry and Veterinary Services,
Block-II, DMS Complex,
Chennai-600 006.

... Appellant in
both writ appeals.

Vs.

G.Karthiban

... Respondent in
W.A.No.323 of 2015

A.P.Chandramathi

... Respondent in
W.A.No.718 of 2015

These writ appeals are preferred under Clause 15 of the Letters Patent against the order of this court dated 18.2.2014 made in W.P.Nos.10437 and 10438 of 2010 filed under Article 226 of the constitution of India to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order of the respondent passed in Na.Ka.No.51818/L3/2009-2 dt.21.08.2009 and Na.Ka.No.51578/L3/2009-1 dated 24.08.2009 and to quash the same and consequently directing the respondent to consider the petitioner for employment on compassionate ground and to appoint the petitioner as Livestock Inspector respectively.

For Appellant : Mr.P.S.Sivashanmugasundaram, Spl.G.P.
In both W.As.

For Respondents : Mr.S.T.P.Kuilmozhi in both W.As.

COMMON JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

Both writ appeals arise from the common order dated 18.02.2014 passed in W.P.Nos.10437 and 10438 of 2010 respectively.

2. The facts in nutshell are that the writ petitioner in W.P.No.10437 of 2010 / respondent in W.A.No.323 of 2015, came up with the writ petition, seeking a direction to the appellant / respondent therein to consider the case of the writ petitioner for employment on compassionate ground. Indisputably, the father of the writ petitioner died in harness on 17.5.1991, working as Livestock Assistant and a request for appointment on compassionate ground was made by the mother of the petitioner on 23.9.1994 after the petitioner attained majority and acquired requisite educational qualification. By communication dated 23.9.1994, the petitioner was called upon to submit requisite certificates, which was immediately done. On 2.4.1997, the writ petitioner was informed that he has been empaneled in the list of eligible candidates for being considered for appointment on compassionate basis at serial No.156. He was also asked to submit his original certificates for verification, which he did. He was further asked to submit his willingness to attend training for Livestock Inspector vide proceedings dated 26.10.2007. Thereafter, all of a sudden, the petitioner was informed on 21.8.2009 that his application for compassionate appointment was not considered for long passage of time.

3. Similarly, the case of the writ petitioner in W.P.No.10438 of 2010 /appellant in W.A.No.718 of 2015 is that, the mother of the petitioner made a request on 10.02.1998 for considering appointment on compassionate basis against the death of the petitioner's father, as Livestock Assistant, in harness on 23.11.1985. The petitioner was also informed accordingly for submissions of her certificates and also empaneled in the list. She was also asked to express her willingness for training as aforestated. Subsequently, by the impugned order dated 24.08.2009, she was informed that she was not eligible for compassionate appointment due to efflux of time.

4. The learned Single Judge considered all aspects of the matter, particularly the fact that the applications of the petitioners were rejected on account of belated approach. The applications were made by the needy mothers of the petitioners, who fell in crises on account of the sudden demise of the petitioners' fathers in harness. When the petitioners were given fond hope as they were asked to submit willingness to go for training and also were informed empanelment of their names for appointment, there was no reason to reject the applications due to delay. The learned Single Judge, accordingly, allowed the writ petitions and directed the respondent to consider the applications of the petitioners for appointment on merits and provide appointment, if they are otherwise found eligible.

5. The appellant / State Government has come before us with these appeals submitting that the writ petitioners were required to make applications within a period of three years from the date of

death of the deceased employee. In fact, the applications were made beyond three years and as such, their applications were rightly rejected. It is further contended that no appointment can be directed de hors the Government policy. G.O.Ms.No.120, Labour and Employment Department, dated 25.6.1995 clearly stipulates that application for consideration has to be made within three years from the date of death of the Government servant. Thus, the decision of the Government to reject the applications in August, 2009 was strictly in accordance with the policy of the State Government. It was lastly contended that the direction of the learned Single Judge to consider the case on merit is contrary to the policy and against the well settled principles of law in respect of compassionate appointment.

6. We have examined all the facets of the case and also considered the submissions advanced by the learned counsel for the parties.

7. It is not in dispute that applications of the writ petitioners, though filed after three years, were entertained. The writ petitioners were directed to submit requisite certificates, which they duly did. The writ petitioners were further asked to submit their willingness for training. They faithfully complied with the order and submitted their willingness. The petitioners were asked to submit original certificates for verification. Thus, steps on the part of authorities gave a clear indication that the applications of the petitioners were entertained despite some delay in making applications. After such a long period, the applications could not have been rejected on the ground of being filed belatedly.

8. One cannot forget the fact that if the head of the family dies, leaving widow and the children without any source of livelihood, the dependents are always in need of some compassion and some succor from the employer. Accordingly, a policy was framed by the Government, stipulating that the application has to be made within three years. No doubt, in this case, the applications were filed belatedly. But, once applications were taken into consideration and the writ petitioners were given hope that they may be appointed against the vacancy available in due course of time, the same could not have been rejected subsequently in August, 2009 on the ground of delay. We are, thus, unable to take contrary view than that of the one taken by the learned Single Judge. What the learned Single Judge has directed was, not to give appointment directly, but to consider the applications on merit and give appointment, if otherwise they are found eligible. The order of the learned Single Judge is perfectly legal, valid and in accordance with the well settled principles of law, warranting no interference.

9. Resultantly, both writ appeals are dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS II)

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Sub Asst. Registrar

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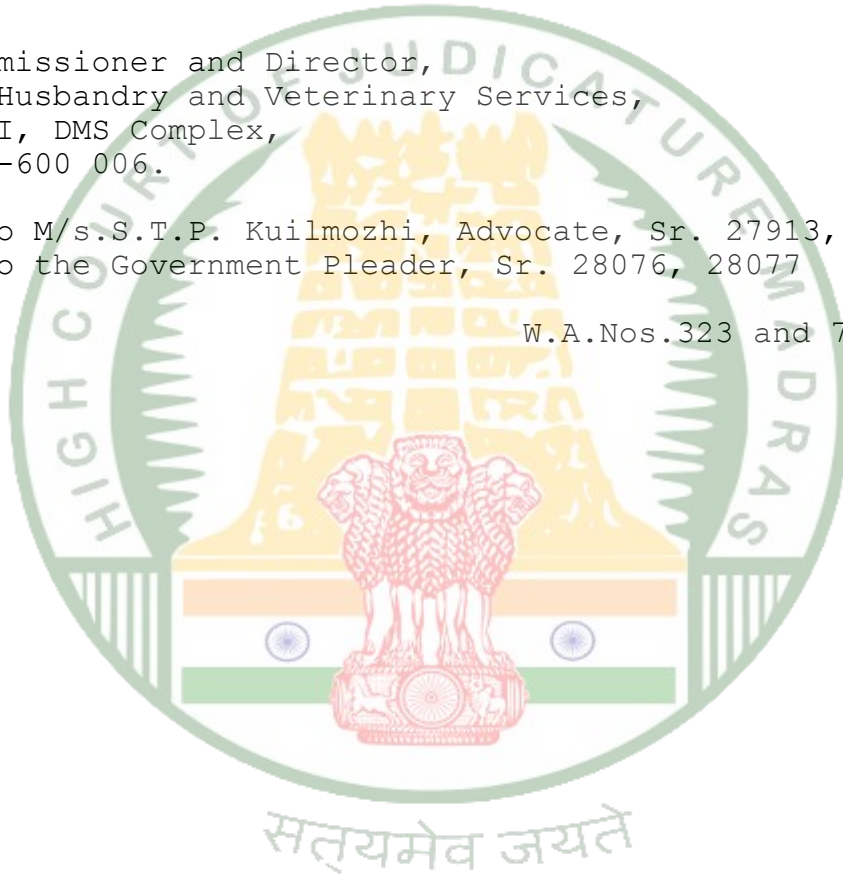
The Commissioner and Director,
Animal Husbandry and Veterinary Services,
Block-II, DMS Complex,
Chennai-600 006.

2 ccs to M/s.S.T.P. Kuilmozhi, Advocate, Sr. 27913, 27914

2 ccs to the Government Pleader, Sr. 28076, 28077

W.A.Nos.323 and 718 of 2015

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